IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICEM.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4514 of 2005

Between:

M/s.Social Computers,

4/7, Brodipet, Guntur,

rep.by its Project Co-ordinator
Sri S.Badari Prasad.

..... PETITIONER

AND

1 Assistant Commissioner (CT)(Int) NO.II,

Guntur -II Division, Guntur.
2 State Project Director,

District Primary Education Programme (DPEP),
Government of A.P.,

O/o.The District School Education,

Beside Telephone Bhavan,

Saifabad, Hyderabad.
3 APTECH Training Limited,

Elite Auto House, 58 A

Air M.Vasangi Road, Andheri (East)

Mumbai.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of writ of certiorari after calling for the records and quash the impugned provisional Assessment order passed by the first respondent on the petitioner for the assessment year 2004-05 dt.1-3-2005 passed in G.I.No.1237/2004-05 in subjecting the total remuneration received for rendering the services to tax on the ground that the said turnover comes under works contract under section 5F of the APGST Act or to pass such further or other orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.KRISHNA MURTHY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

ORDER: (Per TCSR,J)

The contention of the petitioner is that it is a franchisee and not a party to the agreement entered into between the second and third respondents and, therefore, it is not liable to pay tax.

It is the representation of the learned Special Standing Counsel that the petitioner has been given opportunity to file objections and as it has not filed objections, the impugned order dated 01-03-2005 has been passed raising demand and, therefore, the petitioner cannot contend that the order impugned is in violation of any principles of natural justice.

Heard the learned counsel for the petitioner and the learned Special Standing Counsel for Revenue.

Since it is a case where the grievance put forth appears to be want of reasonable opportunity of filing the objections and personal hearing of the matter, after having heard the learned counsel for both the parties and with their consent, without going into the merits of the case or the respective contentions of both parties, it is proposed to dispose of the writ petition with the directions as under:

Without any further notice, the writ petitioner shall file its objections before the

authority on 28-03-2005 and the matter shall be heard on the same day without any further request for time. The Authority is at liberty to pass appropriate orders after receiving the objections and after personal hearing of the matter. The impugned demand notice dated 01-03-2005 is set aside.

The writ petition is accordingly disposed of with the above observation. No order as to costs.

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M.H.S.ANSARI, J

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T.CH.SURYA RAO, J

Date: 16-03-2005

Prv

To

1 The Assistant Commissioner (CT)(Int) NO.II,

Guntur -II Division, Guntur.

2 The State Project Director,

District Primary Education Programme (DPEP),
Government of A.P.,

O/o.The District School Education,

Beside Telephone Bhavan,

Saifabad, Hyderabad.

3 APTECH Training Limited,

Elite Auto House, 58 A

Air M.Vasangi Road, Andheri (East)
Mumbai.

4 Two CCs to G.P. for Commercial Tax, High Court of

Andhra Pradesh, Hyderabad (OUT).

5 2 CD copies

6 2 CCs to MR.KRISHNA MURTHY